

March 25, 1976

going to have expert witness in the protection of the individual that you have to provide him with more assurance of remuneration than \$500. I call the question.

PRESIDENT: There are no more lights anyway. Senator Chambers would you like to close debate on the matter?

SENATOR CHAMBERS: Mr. Chairman, members of the Legislature. Just for the record, the whole philosophy of this bill is to place ceilings on liability. The ceilings are only from the standpoint of the doctor and the insurers liability. When it comes to what the patient has to pay out there is no concern about that and all of a sudden it becomes an evil thing if you establish a ceiling. So, I believe that the offering of this amendment has made the point. It is alright if you are going to protect the health care provider to establish a ceiling in total disregard to the injury that may have been done to the patient. When you talk about limiting the fees that these doctors and these other expert witnesses can command all of a sudden it is the worst thing in the world to write a restriction like that into the law. At least the inconsistency has been pointed out and I will let the issue fall because I know what is going to happen to it. I still believe in what is being presented here and I think that by allowing any amount to be charged as a fee you can successfully prevent a poor patient who has been hurt from calling witnesses. It would be ridiculous for Senator Luedtke or Senator DeCamp or Senator Cavanaugh as an attorney to try to fight a big insurance company if the only way that you can do it is to get a certain type of expert testimony and the minimum that is going to be charged by the expert witness is going to be a thousand dollars a day. Then you are taking a chance because if you loose, then who is going to pay that witness fee? If you go by the ordinary law, I think the one who calls the witness might be required to pay the fee. So, if you are poor to begin with, and you think that it will take 5 days of expert testimony from this one individual or whether it is five different individuals, that is \$5,000 just for that testimony and you might not win anyway. So, that would successfully preclude a person from going into court to challenge a doctor on the basis of malpractice committed. If you can not go to court, the insurance company knows that immediately. The way this bill is drawn you are not suing the doctor, it is you against the insurance company. They have far greater assets than you. In trying to fight St. Paul Fire and Marine, you have less chance of winning against them by yourself than you have a bust in Las Vegas. You go to Las Vegas with a quarter. It is totally unfair what this bill is doing, but I think that the unfairness is going to be accepted. I still want a vote on this motion.

PRESIDENT: Question is shall the bill be returned for the specific amendment. Record your vote. Please vote. Have you voted? Record.

CLERK: 11 ayes, 23 nays.

PRESIDENT: Motion fails. Next.